

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19657
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On June 20, 2006, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioner) proposing income tax, penalty, and interest for the years 1999, 2000, 2001, and 2002 in the total amount of \$9,045.

A timely protest and petition for redetermination was filed by the petitioner. An informal hearing has not been requested by the petitioner. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioner failed to file her 1999, 2000, 2001, and 2002 individual income tax returns. On April 27, 2006, the TDB sent a letter with a questionnaire to the petitioner to help the Commission properly determine the petitioner's filing requirement. The petitioner did not respond to this letter, so [Redacted]. The Commission issued a NOD to the petitioner on June 20, 2006, [Redacted].

In the petitioner's protest letter, she requested the opportunity to file the returns and pay the tax, penalty, and interest she owed.

The Tax Enforcement Specialist (specialist) replied, "I will gladly accept actual returns . . . attach any W-2s which apply, and also attach your federal returns for the years in question. Send in the returns as soon as you have them completed directly to me. . ."

On September 15, 2006, the specialist requested that the petitioner send him the returns or withdraw her protest within 30 days.

Since the petitioner did not respond to the specialist's letters, the petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

On November 14, 2006, the Tax Policy Specialist (policy specialist) sent the petitioner a hearing rights letter to inform her of the alternatives for redetermining a protested NOD.

In a letter from the petitioner dated December 11, 2006, she choose alternate #2, which is to provide additional statements and/or documents for the Commission's consideration. The petitioner stated these documents would be mailed by December 29, 2006.

On January 29, 2007, the policy specialist sent a letter to the petitioner about not receiving the documents she said she would provide. The policy specialist requested the documents be provided within 10 days. The petitioner did not respond to this letter.

On July 26, 2007, the policy specialist requested and received the petitioner's 1999, 2000, and 2001 W-2 Wage and Tax Statements from her employer. The petitioner's 2002 W-2 was found in the Commission's records. The petitioner's W-2s were used to modify the Commission's provisional returns.

The petitioner's returns for the years 2000, 2001 and 2002 resulted in refunds. However, Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim a refund.

63-3072. Credits and refunds. . . .

(c) Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions. (Emphasis added.)

Idaho Code § 63-3024A defines the credit and the time allowed to apply for a refund:

63-3024A. Credits and refunds. -- (a) Any resident individual not entitled to the credit allowed in subsection (b)(1), who is required to file by law and who has filed an Idaho income tax return, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of twenty dollars (\$20.00) for each personal exemption for which a deduction is permitted by section 151(b) and (c) of the Internal Revenue Code if such deduction is claimed on the taxpayer's Idaho income tax return, and if the individual for whom the deduction is claimed is a resident of the state of Idaho. If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer . . .

(g) An application for any refund which is due and payable under the provisions of this section must be filed with the state tax commission within three (3) years of:

- (i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or
- (ii) the 15th day of April of the year following the year to which the application relates if the applicant is not required to file a return. (Emphasis added.)

The petitioner's 2000, 2001, and 2002 returns had due dates of April 15, 2001, April 15, 2002, and April 15, 2003, respectively. Since the petitioner has not filed her 2000, 2001, and 2002 returns and these years are well outside the three-year statute of limitations, the Commission must deny all of these refunds.

The petitioner has not provided the Commission with her actual Idaho income tax returns for all years in question. Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated June 20, 2006, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX DUE</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$88	\$22	\$38	\$148
2000	0	0	0	0
2001	0	0	0	0
2002	0	0	0	<u>0</u>
			TOTAL DUE	<u>\$148</u>

Interest is computed through December 6, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.